



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: EAC-97-205-51623

Office: Vermont Service Center

Date:

JUN 12 2000

IN RE: Petitioner:
Beneficiary:

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(4)

IN BEHALF OF PETITIONER:

Public Copy

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

JUN 20 2000

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. The Associate Commissioner for Examinations dismissed an appeal from the decision. The matter is now before the Associate Commissioner on motion to reconsider. The motion will be dismissed.

The petitioner is a church that seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(4), to serve as a missionary.

The center director denied the petition in a decision dated December 15, 1997. The Associate Commissioner dismissed an appeal from that decision finding that the petitioner had failed to establish that: the beneficiary had continuous work experience in a religious vocation or occupation during the two-year period immediately preceding the filing date of the petition; the proposed position constitutes a religious occupation; it had made a valid job offer to the beneficiary; and, the church had the ability to pay the proffered wage.

On motion, counsel argued that the beneficiary does qualify for the benefit sought.

8 C.F.R. 103.5(a)(ii) provides that a petitioner may file a Motion to Reopen or a Motion to Reconsider by filing Form I-290A with required fee. According to 8 C.F.R. 103.5(a)(1)(i), any motion to reopen or reconsider must be filed by the petitioner within 30 days of the decision that the motion seeks to reopen or reconsider.

The appeal was dismissed in a decision dated January 29, 1999, and mailed to the petitioner on February 9, 1999. The petitioner filed the motion with this office on or about March 11, 1999. The decision of the Administrative Appeals Office clearly states that "any motion must be filed with the office which originally decided your case." The motion was properly filed at the Vermont Service Center on April 2, 1999. The respondent's motion was improperly filed and untimely filed. The motion was untimely filed and will be dismissed.

In addition, according to 8 C.F.R. 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. According to 8 C.F.R. 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. 8 C.F.R. 103.5(a)(4) further states that a motion that does not meet applicable requirements shall be dismissed.

The petitioner's submissions on motion fail to present any new facts to be considered, and fail to identify any incorrect application of law supported by pertinent precedent decisions. Even were the motion timely filed, it would be dismissed as failing to meet applicable requirements of a proper motion.

ORDER: The motion is dismissed.